

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF WEST VIRGINIA
AT CHARLESTON

LARRY D. DANBERRY

Plaintiff,

v.

CIVIL ACTION NO. 2:06-00908

MICHAEL J. ASTRUE,

Defendant.

MEMORANDUM OPINION AND ORDER

By Standing Order entered on August 1, 2006, and filed in this case on October 26, 2006, this action was referred to United States Magistrate Mary E. Stanley for submission of Proposed Findings and Recommendation ("PF & R"). (Doc. No. 4.) Magistrate Judge Stanley submitted her PF & R on November 29, 2007. (Doc. No. 14.) In that PF & R, the magistrate judge recommended that this court 1) reverse the decision of the Commissioner, 2) remand this case to the Commissioner pursuant to the fourth sentence of 42 U.S.C. § 405(g) for further proceedings, and 3) dismiss this matter from the court's docket. (Id. at 12.)

In accordance with the provisions of 28 U.S.C. § 636(b), the parties were allotted ten days, plus three mailing days, in which to file any objections to Magistrate Judge Stanley's Findings and Recommendation. No party has filed objections within the requisite period, and the failure of any party to file such objections constitutes a waiver of such party's right to a *de*

novo review by this court. Snyder v. Ridenour, 889 F.2d 1363 (4th Cir. 1989); Thomas v. Arn, 474 U.S. 140 (1985).

Having reviewed the PF & R filed by the magistrate judge, the court adopts the findings and recommendation contained therein. Accordingly, the court hereby **GRANTS** plaintiff's Motion for Judgment on the Pleadings (Doc. No 11); **DENIES** defendant's Motion for Judgment on the Pleadings (Doc. No. 13); **REVERSES** the final decision of the Commissioner; and **REMANDS** this case to the Commissioner pursuant to the fourth sentence of 42 U.S.C. § 405(g) for further proceedings.

The Clerk is directed to remove this matter from the court's active docket, and to forward a certified copy of this written Memorandum Opinion and Order to counsel of record.

It is **SO ORDERED** this 8th day of January, 2008.

ENTER:

A handwritten signature in dark ink, appearing to read "David A. Faber", is written over a horizontal line.

David A. Faber
United States District Judge